



RCRA Corrective Action Interim Measures

BACKGROUND: Under the Resource Conservation and Recovery Act (RCRA), facility owners or operators can be required to conduct corrective action to address actual or potential releases of hazardous wastes or hazardous waste constituents at a treatment, storage, or disposal facility (TSDF). On July 27, 1990, the U.S. Environmental Protection Agency (EPA) issued a proposed rule for corrective action under 40 CFR 264, Subpart S. This rule is intended to address corrective action for releases of hazardous wastes or hazardous waste constituents to all media from any solid waste management unit (SWMU). Although Subpart S is only proposed, it is being implemented by the EPA Regions until the rule can be finalized. Under this program, the TSDF owner or operator may conduct interim measures to (1) address immediate threats related to an actual release or (2) prevent realization of the threat posed by a potential release. Interim measures are usually conducted while a long-term corrective-action strategy is developed and implemented at the facility but can be conducted anytime during the corrective action process. An interim measure can be similar to a removal action under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) but is limited only to actions addressing actual or potential releases of hazardous wastes or hazardous waste constituents from SWMUs at TSDFs. In addition to a discussion of interim measures, this Information Brief provides a comparison of interim measures and CERCLA removals. It is one of a series of Information Briefs on RCRA corrective action.

STATUTE: RCRA as amended by the Hazardous and Solid Waste Amendments of 1964 (HSWA)

REGULATIONS: Proposed 40 CFR 264.540 [55 FR 30798, July 27, 1990]

REFERENCE:

1. "RCRA Corrective Action Interim Measures Guidance (Interim Final)," EPA (OSW/OWPE), June 1988.
2. "Considerations in Ground-Water Remediation at Superfund Sites and RCRA Facilities-update," EPA, Directive No. 9283.1-06, May 1992.
3. "Estimating Potential for Occurrence of DNAPL at Superfund Sites," EPA (OSW/OERR), 9355.4-07FS, January 1992.
4. "Groundwater Remediation Considerations in Environmental Restoration Activities," DOE Office of Environmental Guidance, RCRA/CERCLA Division, EH-231 Memorandum, August 1992.
5. "RCRA Corrective Action Program Guide (Interim)," DOE Office of Environmental Guidance, RCRA/CERCLA Division, EH-231, DOE/EH-0323, May 1993.

What is an interim measure under the proposed RCRA Subpart S?

Interim measures are short-term actions taken to mitigate the actual release or the threat of a potential release of hazardous waste or hazardous waste constituents from a facility. Generally, interim measures are conducted while developing a long-term comprehensive corrective action strategy. They may encompass a wide range of possible actions, including:

- ☐ actions to control the source or potential source of a release,
- ☐ actions to control the migration of a release, and
- ☐ actions to minimize exposure to the release.

Any interim measure should, to the extent practicable, be consistent with, and contribute to, the performance of any corrective measure that may be conducted as part of the long-term corrective-action strategy.

What is a corrective measure under the proposed RCRA Subpart S?

Corrective measures under the proposed subpart are actions that address a release of a hazardous waste or a hazardous waste constituent at a permitted or interim status TSDF and are to be included in the long-term comprehensive strategy. The principal goal of the corrective measure is to reduce the concentration of hazardous waste or hazardous waste constituents released to a specific environmental medium, or to several media to achieve media-specific cleanup standards (MCS). The MCS, discussed in the proposed Subpart S rule at 40 CFR 264.525(d), are concentrations of hazardous waste or

hazardous waste constituents in a specific environmental medium determined by EPA to be protective of human health and the environment over the long term (usually 70 years, the period typically used in evaluating carcinogenic effects). A corrective measure must include:

- ☐ actions taken to protect human health and the environment,
- ☐ attainment of the MCS established for the corrective measure,
- ☐ control or elimination of the source of a release (in order to keep the clean-up from being a perpetual process), and
- ☐ compliance with the applicable requirements for waste management.

As part of the overall strategy to address a release, a corrective measure may include conducting interim measures.

What is the difference between an interim measure and a corrective measure?

The principal differences between interim measures and corrective measures are the periods during which each is conducted and the nature of the protection of human health and the environment each provides. An interim measure is intended to be implemented in the short term, usually within a few days or months, and is intended to prevent or mitigate an immediate or short-term threat posed by an actual or potential release of a hazardous waste or hazardous waste constituent. Corrective measures are intended to provide the permanent solution to the long-term threats posed by an actual or potential release of hazardous waste or hazardous waste constituents.

What authority does EPA or a State have to require interim measures?

Under RCRA Sections 3004(u) and (v), EPA requires permitted TSDFs to take corrective action to address releases of hazardous wastes or hazardous waste constituents. Under proposed Subpart S, the statutory authority of RCRA Sections 3004(u) and (v) and 3008(h) is used to require an interim measure. RCRA Section 3008(h) provides EPA or a State with the authority to require that an interim status facility conduct an interim measure. Under the proposed 40 CFR 264.540, EPA is proposing requirements for interim measures. For permitted facilities, EPA may include in the facility's permit a requirement to conduct an interim measure. For Federal facilities the requirements for interim measures may be included in the Federal Facility Compliance Agreement (FFCA) or Interagency Agreement (IAG) for the facility. **[Update 2/99: It should be noted that if there is evidence of conditions posing an imminent and substantial endangerment to health or the environment, EPA may choose to issue an order to abate those conditions as quickly as possible under the imminent hazard provisions of Sect. 7003 of RCRA instead of Sects. 3004(u), 3004(v), or 3008(h).]**

Under what circumstances should an interim measure be implemented?

There are several instances when an interim measure should be implemented. For example, an interim measure should be implemented when EPA or an authorized State issues a permit condition or modification, or when there is a requirement for an interim measure in the FFCA or IAG for the facility. In addition, a RCRA Section 3008(h) Order may be issued to require an interim measure. An interim measure should also be considered by the facility owner or operator as a voluntary short-term action whenever an actual or potential release of a hazardous waste or hazardous waste constituent at a permitted or interim status TSDF poses a real or potential threat to human health or the environment. Interim measures may also be considered in situations where there is no significant immediate threat posed by release of hazardous wastes or hazardous waste constituents but where implementation of a corrective measure is unlikely in the near future. In these cases, it is important to consider the general performance standards and specific decision factors for a corrective measure to ensure that the interim measure is consistent with, and will contribute to, the performance of any corrective measure conducted as part of the long-term corrective action strategy. The general performance standards for a corrective measure include:

- ☐ providing protection of human health and the environment,
- ☐ attaining final MCS,
- ☐ providing source control to reduce or eliminate further releases, and
- ☐ complying with the standards for the management of wastes generated during the action.

The specific decision factors considered when selecting the corrective measure are:

- ☐ long-term reliability and effectiveness,
- ☐ reduction of the toxicity, mobility, and volume of the waste,
- ☐ short-term effectiveness,
- ☐ implementability, and
- ☐ cost.

What is a removal action under CERCLA?

Removal actions under CERCLA address situations where a release of a hazardous substance, pollutant, or contaminant

poses an imminent threat to public health, welfare, or the environment (removals generally mitigate or stabilize individual threats rather than all threats at a CERCLA site). There are three classes of removal actions: emergency removals, where action is required within hours or days; time-critical removals, where action may be delayed up to six months; and non-time-critical removals, where action may be delayed more than six months. If a removal requires on-site activities lasting longer than 120 days, a community-relations plan must be developed and implemented. Non-time-critical removals also require an Engineering Evaluation/Cost Analysis. Compliance with applicable or relevant and appropriate requirements also must be considered when practicable for all classes of removals.

How does a RCRA interim measure compare with a removal action under CERCLA?

The principal difference between an interim measure and a removal action is that the CERCLA removal authority is broader, encompassing a wider variety of contaminants, locations, and scenarios. CERCLA removal authority allows response to any incident where a release of hazardous substances, pollutants, or contaminants presents a real or potential threat to human health or the environment. The RCRA interim measures authority can only be used to respond to releases of hazardous wastes or hazardous waste constituents at RCRA permitted or interim status TSDFs.

How does a facility owner or operator choose between a RCRA interim measure and a CERCLA removal action?

Frequently, an authorized State regulatory agency will require facilities to conduct either a CERCLA removal action or a RCRA interim measure based on the particular situation. In the case of either an EPA or State-mandated action (through the permit order, FFCA, or IAG) or a voluntary action by the facility owner or operator, the appropriateness of the action to the situation at the facility must be considered. An interim measure can only be used to address releases of hazardous wastes and hazardous waste constituents at permitted or interim status TSDFs. If the situation does not involve an actual or potential release of a RCRA hazardous waste or hazardous waste constituents, or the facility is not a permitted or interim status TSDF, the owner or operator should consider a CERCLA removal action or other types of actions under a more appropriate authority. The CERCLA removal authority is broader than the RCRA authority and is used to address releases of hazardous substances, pollutants, or contaminants (which include hazardous wastes and hazardous waste constituents) at any site posing a threat to human health or the environment. Other considerations, such as availability of resources (i.e., funding), may also be used to determine the authority used to respond to the release.

Questions of policy or questions requiring policy decisions will not be dealt with in EH-231 Information Briefs unless that policy has already been established through appropriate documentation. Please refer any questions concerning the subject material covered in this Information Brief to Jerry Coalgate, RCRA/CERCLA Division, EH-231, (202) 586-6075.

